

## APPEAL NO. 010331

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 24, 2001. The hearing officer resolved the issues before her by deciding:

1. The claimant's \_\_\_\_\_, compensable injury was the producing cause of the claimant's current back condition.
2. The claimant did not sustain a compensable injury on \_\_\_\_\_.
3. The claimant did not have disability as result of the alleged injury on \_\_\_\_\_.

The appellant (carrier 1) files a request for review arguing that the evidence showed that the claimant suffered an injury on \_\_\_\_\_; that the claimant had disability from August 4, 1999, through March 13, 2000, as a result of this \_\_\_\_\_, injury; and that the \_\_\_\_\_, injury is the sole cause of the claimant's current back condition. Respondent (carrier 2) responds that there is sufficient evidence to support the decision of the hearing officer. There is no response from the claimant to carrier 1's request for review in the appeal file.

### DECISION

A timely appeal not having been filed, the decision and order of the hearing officer have become final pursuant to Section 410.169.

Records of the Texas Workers' Compensation Commission (Commission) show that the decision of the hearing officer was distributed to the parties on January 29, 2001, and that a copy was received by carrier 1 on January 30, 2001.

Under Section 410.202(a), an appeal, to be timely, must be filed or mailed within 15 days of the date of receipt of the hearing officer's decision. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)) provides that an appeal is presumed to have been timely filed if it is mailed not later than the 15th day after the date of receipt of the hearing officer's decision and received by the Commission not later than the 20th day after the date of receipt of the hearing officer's decision.

The last day for the carrier 1 to timely file an appeal would have been Wednesday, February 14, 2001. Commission records show that carrier 1 sent its appeal to the Commission by facsimile transmission on February 16, 2001, and also mailed it to the Commission in an envelope postmarked February 16, 2001. Carrier 1's appeal is untimely, having been filed after the 15-day deadline.

Carrier 1's appeal being untimely, the decision and order of the hearing officer have become final. Section 410.169.

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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Robert W. Potts  
Appeals Judge